THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.19529 OF 2005

Dated 8th September 2005

Between:

B.N.Bhushanam S/o.Chinna Veeranna,

Aged 40 years, Occu:Condutor,

APSRTC, Adhono Depot, Kurnool Dist.

…Petitioner

And

The APSRTC, rep. By its Regional Manager,

Kurnool, Kurnool District. & antoher

…Respondents

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O R D E R:

The petitioner was employed as a conductor in APSRTC. He was issued a charge memo dated 16.2.1989, alleging that he failed to collect fare and to issue ticket to a passenger. Petitioner submitted his explanation, and on consideration of the same, the second respondent imposed the punishment of stoppage of increment, for a period of six months, with cumulative effect. Petitioner preferred an appeal, before the Divisional Manager, Nandyal, after about 12 years. The appeal was rejected on 2.8.2003. Thereafter, the petitioner filed a review, before the first respondent, and it was rejected on 28.4.1989. Hence, this writ petition.

Ms.K.Savithri Devi, learned counsel for the petitioner, submits that the punishment of stoppage of increment, with cumulative effect, was imposed against the petitioner, without conducting enquiry, and that the same is contrary to the principle laid down by the Supreme Court in ***KULVANT SINGH GILL V. STATE OF PUNJAB***. She further contends that the petitioner offered proper explanation, for the trivial lapse, and despite the same, the second respondent imposed the punishment, which would have adverse effect, on the emoluments of the petitioner. As regards the belated filing of appeal, the learned counsel submits that the petitioner is not conversant with the legal procedure, and on account of such a belated approach, no prejudice can be said to have been caused to the respondents.

Sri P.Vinayaka Swamy, learned Standing Counsel for the Corporation, on the other hand, submits that the regulations of the Corporation do not maintain any distinction, between stoppage of increment with cumulative effect, and such a punishment, without cumulative effect. He submits that the principle laid down by the Supreme Court in ***Kulvant Singh Gill's*** case (1 supra) can, at the most, be prospective in operation, and does not apply to cases decided, before that decision. He further contends that there was hardly any explanation, on the part of the petitioner, in preferring the appeal, after more than a decade.

It is rather difficult to apply the principle laid down in ***Kulvant Singh Gill's*** case (1 supra), to the facts of this case. The Supreme Court did not observe that the principle laid down in that case would apply to cases, which have been decided earlier to it. In a batch of writ petitions, decided today itself, this Court took the view that the principle laid down in that case can operate, *vis-à-vis* the respondents, with effect from 1.10.1990.

It is true that there is enormous delay, on the part of the petitioner, in preferring the appeal. However, in view of the judgment of the Supreme Court in ***GURMAIL SINGH v. PRINCIPAL, GOVERNMENT COLLEGE OF EDUCATION,*** a delayed approach by an employee must not result in denial of the relief, as a whole. The petitioner is employed as a conductor, and he is not conversant with the legal

procedure. He has to depend upon the legal advice, tendered by some other persons. Further, he could notice the impact of the order, which appears to be innocuous, as and how the time passed on.

The lapse on the part of the petitioner was failure to collect the fare and to issue ticket to a passenger. It was not even alleged that he has misappropriated any amount. This Court is of the view that the petitioner cannot be made to suffer to such an extent, on account of the trivial lapse. At the same time, the Corporation cannot be mulcted with any monetary liability, because of the belated approach by the petitioner to this Court.

For the foregoing reasons, the writ petition is disposed of, directing that the order dated 28.4.1989, passed by the second respondent, shall be treated as the one for stoppage of the increment, for a period of six months, without cumulative effect, and that the benefit of such modification shall accrue to the petitioner, only as regards the calculation of retirement benefits, and not in any other manner. There shall be no order as to costs.

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8th September 2005

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